

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Appellee,

v.

MARIA JESUS RIOS,
Appellant.

No. 2 CA-CR 2015-0059
Filed March 9, 2016

THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.

NOT FOR PUBLICATION

See Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Crim. P. 31.24.

Appeal from the Superior Court in Pima County
No. CR20142567001
The Honorable Carmine Cornelio, Judge

AFFIRMED

COUNSEL

Mark Brnovich, Arizona Attorney General
By Joseph T. Maziarz, Section Chief Counsel, Phoenix
Counsel for Appellee

Emily Danies, Tucson
Counsel for Appellant

STATE v. RIOS
Decision of the Court

MEMORANDUM DECISION

Presiding Judge Vásquez authored the decision of the Court, in which Chief Judge Eckerstrom and Judge Miller concurred.

VÁSQUEZ, Presiding Judge:

¶1 After a jury trial, Maria Rios was convicted of possession of marijuana, possession of drug paraphernalia, and second-degree money laundering. The trial court suspended the imposition of sentence and placed her on concurrent three-year terms of probation. On appeal, Rios argues the state presented insufficient evidence to support her money-laundering conviction. We affirm.

Factual and Procedural Background

¶2 We view the facts and all reasonable inferences therefrom in the light most favorable to upholding Rios's convictions. *See State v. Almaguer*, 232 Ariz. 190, ¶ 2, 303 P.3d 84, 86 (App. 2013). In April 2013, Tucson Police officers responded to a report of gunshots fired near a residence on Allen Street. No one answered the door, and, fearing someone inside might be injured, the officers called a telephone number associated with the house. Rios answered and acknowledged it was "her residence." She said she "heard there had been some shots fired" but no one should be inside.

¶3 After arriving at the scene, Rios explained she had recently moved out of the Allen house but still "had the responsibility of checking on it." She said she moved into a house on Mountain Avenue with her children and ex-husband, F.M. She stated that, when her boyfriend, I.L., stopped by the Mountain house that morning, he saw F.M.'s car, got into an argument with

STATE v. RIOS
Decision of the Court

Rios, and took the keys to the Allen house.¹ Rios said she then asked her brother to check on the Allen house, and, when he did, I.L. was parked in the driveway and shot at her brother.

¶4 In response to the officers' concerns, Rios gave them keys to the Allen house and consented to a search for anyone who may "be injured or need help." Inside, the officers found no one but smelled marijuana and observed "things that were indicative of narcotic sales and production," including marijuana residue, large suitcases, plastic bags, and a scale. Based on their observations, the officers obtained a search warrant and again entered the Allen house. Among other items, they found 20.7 pounds of marijuana, two rifles, and a shotgun. In a dresser drawer containing underwear, the officers also found \$18,088 cash wrapped in a girdle. Although she provided multiple explanations for the source of the cash, Rios admitted hiding it there.

¶5 A grand jury indicted Rios for possession of marijuana for sale, possession of drug paraphernalia, four counts of weapons misconduct for possessing a deadly weapon during the commission of a felony drug offense, and second-degree money laundering.² During trial, Rios moved for a judgment of acquittal pursuant to Rule 20, Ariz. R. Crim. P., on all counts except possession of drug paraphernalia. As to the charge of money laundering, Rios claimed that "[t]he money . . . couldn't have been from [the] marijuana" in the house and that the state was "asking the jury to assume there was some other offense in the past . . . to produce [the] money." The trial court denied the motion, finding there was a "reasonable connection" between the money and the drugs.

¶6 The jury acquitted Rios of the weapons-misconduct charges but found her guilty of possession of marijuana as the

¹When initially speaking to the officers, Rios referred to both I.L. and P.M. as her boyfriend. However, she later clarified that I.L. and P.M. are the same person.

²Before trial, the court granted the state's motion to dismiss one of the weapons-misconduct charges.

STATE v. RIOS
Decision of the Court

lesser-included offense of possession of marijuana for sale, possession of drug paraphernalia, and second-degree money laundering. After trial, Rios renewed her motion for a judgment of acquittal, which the court again denied. This appeal followed. We have jurisdiction pursuant to A.R.S. §§ 12-120.21(A)(1), 13-4031, and 13-4033(A)(1).

Discussion

¶7 Rios argues the trial court erred in denying her motion for a judgment of acquittal because the state presented insufficient evidence to support her conviction for money laundering. “The sufficiency of the evidence is a question of law we review de novo.” *State v. Snider*, 233 Ariz. 243, ¶ 4, 311 P.3d 656, 658 (App. 2013). “[T]he relevant question is whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.” *State v. West*, 226 Ariz. 559, ¶ 16, 250 P.3d 1188, 1191 (2011), quoting *State v. Mathers*, 165 Ariz. 64, 66, 796 P.2d 866, 868 (1990). We will reverse only if no substantial evidence supports the conviction. *State v. Rivera*, 226 Ariz. 325, ¶ 3, 247 P.3d 560, 562 (App. 2011). “Substantial evidence is proof that reasonable persons could accept as sufficient to support a conclusion of a defendant’s guilt beyond a reasonable doubt.” *Id.*, quoting *State v. Spears*, 184 Ariz. 277, 290, 908 P.2d 1062, 1075 (1996). Substantial evidence may be direct or circumstantial. *State v. Pena*, 209 Ariz. 503, ¶ 7, 104 P.3d 873, 875 (App. 2005).

¶8 “A person is guilty of money laundering in the second degree if the person . . . [a]cquires or maintains an interest in, transacts, transfers, transports, receives or conceals the existence or nature of racketeering proceeds knowing or having reason to know that they are the proceeds of an offense.” A.R.S. § 13-2317(B)(1). “Racketeering’ means any act, including any preparatory or completed offense, that is chargeable or indictable under the laws of the state or country in which the act occurred . . . regardless of whether the act is charged or indicted, and the act involves” specified conduct or circumstances, including “[p]rohibited drugs, marijuana or other prohibited chemicals or substances” if committed

STATE v. RIOS
Decision of the Court

for financial gain. A.R.S. § 13-2301(D)(4)(b)(xi); *see also* § 13-2317(F)(3)(c).

¶9 Rios contends the state failed “to show that the money found was connected to illegal activity and that [she] knew or should have known that fact.” She maintains the state attempted “to rely on a lack of evidence of legitimate earnings and inconsistencies in [the] testimony to show a connection between the money in question and a racketeering offense.” And, citing *In re \$26,980.00 U.S. Currency*, 199 Ariz. 291, 18 P.3d 85 (App. 2000), she asserts, “Such evidence is not sufficient to prove a nexus between [the] found money and illegal activity.”

¶10 *In re \$26,980.00 U.S. Currency* is distinguishable. In that case, officers found money, which they seized, in a Federal Express package mailed to the claimant, whose husband had been previously convicted of various drug offenses. *Id.* ¶¶ 2-3. The issue on appeal was whether the trial court erred in concluding “that Pima County had not proven by a preponderance of the evidence that the seized money was subject to forfeiture.” *Id.* ¶ 14; *see also Fitzgerald v. Superior Court*, 173 Ariz. 539, 547, 845 P.2d 465, 473 (App. 1992) (forfeiture and criminal cases subject to different standards of proof). We affirmed the court’s conclusion that the money was not subject to forfeiture because Pima County relied on the claimant’s “internally inconsistent and largely undocumented explanations of the source of the seized money,” rather than tracing it. *In re \$26,980.00 U.S. Currency*, 199 Ariz. 291, ¶ 19, 18 P.3d at 91.

¶11 Here, although the state relied, in part, on Rios’s inconsistent statements about the source of the money, as well as her lack of employment, it presented additional evidence to support her conviction. The \$18,088 cash was found in the Allen house near 20.7 pounds of marijuana and other items commonly used to package and sell drugs, including scales, walkie-talkies, a food-saver machine with bags, and weapons. Rios admitted she previously lived at the house and was still responsible for it. She also said she hid the cash in the drawer. Rios knew I.L. was staying at the Allen house. She told a detective I.L. sells marijuana and he had asked her if she knew anybody who wanted to purchase “those last 20 pounds” of marijuana. And, Rios admitted having sex with I.L. in

STATE v. RIOS
Decision of the Court

exchange for gifts and money, which she suspected came from selling drugs.

¶12 Moreover, a detective specializing in narcotics testified that “marijuana is primarily a cash business” and that “folks involved in the business of buying and selling marijuana . . . have large amounts of cash on hand.” In addition to the money, officers found numerous receipts showing large purchases paid for with cash and “multiple” Coach purses. The receipts dated back to when Rios lived at the Allen house, and Rios admitted the purses belonged to her. The detective explained that “high-dollar items are . . . very often purchased with proceeds from narcotics sales” because “it’s a way of using your money to show your status.” The state thus presented substantial evidence, albeit largely circumstantial, that the money came from conduct involving prohibited drugs committed for financial gain, *see* § 13-2301(D)(4)(b)(xi), and that Rios knew or had reason to know as much. *See Pena*, 209 Ariz. 503, ¶ 7, 104 P.3d at 875.

¶13 Rios nonetheless asserts that she and her mother testified the money came from the sale of a business and maintains “this testimony was uncontroverted and provided a reasonable explanation as to why [she] was in possession of such a large sum of cash.” But the jury as the trier of fact determines what evidence to accept and reject. *State v. Ruiz*, 236 Ariz. 317, ¶ 16, 340 P.3d 396, 402 (App. 2014). And it was free to reject Rios’s story, even if uncontroverted. *See State v. Pieck*, 111 Ariz. 318, 320, 529 P.2d 217, 219 (1974) (“The jury is not compelled to accept the story or believe the testimony of an interested party.”); *see also State v. Hall*, 204 Ariz. 442, ¶ 55, 65 P.3d 90, 103 (2003) (credibility of witnesses is jury matter); *State v. Dixon*, 216 Ariz. 18, ¶ 10, 162 P.3d 657, 660 (App. 2007) (rejecting insufficient-evidence argument based on defendant’s testimony). Rios essentially asks us to reweigh the evidence on appeal—something we will not do. *See State v. Lee*, 189 Ariz. 590, 603, 944 P.2d 1204, 1217 (1997). The trial court did not err in denying Rios’s motion for a judgment of acquittal. *See Snider*, 233 Ariz. 243, ¶ 4, 311 P.3d at 658.

STATE v. RIOS
Decision of the Court

Disposition

¶14 We affirm Rios's convictions and probationary terms.